

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 1.25. Administrative Procedures–Hearings

Article 4. Administrative Hearing Procedures for Review of Citations

Subarticle 1. General Provisions

§ 60075.2. Definitions.

(a) The definitions applicable to these rules include those set out in the Health and Safety Code (commencing with section 39010) Title 13, California Code of Regulations, section 2180.1, and Title 17, California Code of Regulations, sections 60040, et seq.

(b) The following definitions also apply:

(1) “Administrative record” means all documents and records timely filed with the hearing office, pursuant to section 60075.3 and the time deadlines of these rules, including pleadings, petitions, motions, and legal arguments in support thereof; all documents or records admitted into evidence or administratively noticed by the hearing officer; all official recordings or written transcripts of hearings conducted; and all orders or decisions issued by the hearing officer, executive officer, or the state board regarding the citation at issue; administrative record does not include any prohibited communications as defined in section 60075.14, and any settlement discussions or offers of settlement.

(2) “Citation” means an administrative action alleging one or more Class I violations as determined by the state board pursuant to section 60075.11.

(3) “Citee” means any person named in a citation as committing a Class I violation; in citations issued pursuant to Health and Safety Code section 44011.6 and Title 13, CCR, section 2180, et seq., the citee is the vehicle owner as defined in section 2180.1(a)(21).

(4) “Class I violation” means the type of violation for which issuance of a citation under this article is appropriate; it includes:

(A) All violations arising under Health and Safety Code sections 44011.6, et seq.; and

(B) Those violations that are less complex, less serious in nature as determined by one or more relevant factors listed in section 60075.11, and that the state board elects to address as “Class I violations.”

(5) “Complainant” means the state board, acting through any of its employees that have been authorized by the state board or its executive officers, to investigate, issue, and prosecute a citation under this article.

(6) “Consent Order” means an order entered by the hearing officer in accordance with the settlement agreement of the parties.

(7) “Default” means the failure of any party to take the steps necessary and required by these regulations to further the hearing towards resolution, resulting in a finding by the hearing officer of forfeiture of the cause of action against that party.

(8) “Discovery” means the limited right to exchange documents and taking of depositions, as provided in Subarticle 7.

(9) “Hearing Office” is the office established by the state board to conduct administrative hearings pursuant to Health and Safety Code sections 44011.6(m) and 43028 to implement the provisions of these rules. The hearing office shall include at least one administrative law judge who shall act as a hearing officer.

(10) “Hearing Officer” is an administrative law judge appointed by the state board to conduct hearings pursuant to sections 44011.6 and 43028 of the Health and Safety Code and these rules. Only appointed administrative law judges shall act as hearing officers.

(11) “Party” includes the complainant and citee.

(12) “Penalty” means the civil penalty assessed against a citee for one or more violations of the Act.

(13) “Proceeding” means any hearing, determination or other activity before the hearing officer that involves the parties to a citation or consideration of the citation.

(14) “Settlement Agreement” means a written agreement executed by complainant and citee that respectively settles the allegations at issue in the citation. The settlement agreement shall include, but not be limited to, the following: (1) stipulations by the parties establishing subject matter; (2) an admission by citee that it committed the

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violations as alleged in the citation or a statement by citee that it neither admits nor denies that it committed such violations; and (3) the terms and conditions of the settlement.

NOTE: Authority cited: Sections 39600, 39601, 43028, 43031(a) and 44011.6(m), Health and Safety Code. Reference: *Mathews v. Eldridge*, 424 U.S. 319 (1976); and Sections 43028, 43031(a) and 44011.6, Health and Safety Code.

REFERENCE